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No. 04-1312

IN THE

# Supreme Court of the United States

BISHOP OF THE WAY THOM SATTERLEE, DIRECTOR NORTHWEST HOUSING TRUST STEVEN MILTON: GRAY AND NAZIRITE ELDER OF TRUTH FLOYD TIMOTHY: RYAN,
*Petitioners*,

v.

TERRITORY/STATE OF WASHINGTON, as agent for the United States of America; BRUCE AND AUDREY CHIKALLS; WELLS FARGO HOME LOAN, CORY REIN; QUALITY LOAN SERVICE CORP, FIRST HORIZON HOME LOAN CORPORATION, WILSHIRE CREDIT CORPORATION, AND COREY MCCRARY, a minor, by and through his mother LORRIE CANADA,
*Respondents*.

**On Petition for a Writ of Certiorari to the Supreme Court of the State of Washington**

## RESPONDENTS FIRST HORIZON HOME LOAN CORPORATION AND QUALITY LOAN SERVICE CORP.'S BRIEF IN OPPOSITION

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## QUESTION PRESENTED

Whether the State's assertion that it is the "Creator" and therefore can foreclose non-members of State's established religious institution from acting to protect their property rights and interests, and whether the establishment of a State religion can constitutionally and lawfully deny and prevent the inhabitants of Washington state the quiet enjoyment and exercise their property and political rights under the United States' Constitutional "guarantee to every state in this union [of] a republican form of government."

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## OPINIONS BELOW

The Opinion and Dissent of the Washington State Supreme Court in Cedar County Committee v. Munro is reported at 134 Wn.2d 377, 950 P. 2d 446 (1998).[1]

[1] This is the case referenced by Petitioners in their Petition for Writ of Certiorari. However, Respondents First Horizon Home Loan Corporation

## JURISDICTION

It is the respectful position of Respondents that this Court lacks jurisdiction to hear this matter with regard to First Horizon Home Loan Corporation and Quality Loan Service Corp.

## STATEMENT

1. Identification of the Parties. First Horizon Home Loan Corporation is a mortgage lender who conducts business in the State of Washington. On or about August 4, 2000, Eric and Amy Roehrich ("Roehrich") executed a note and deed of trust in favor of First Horizon Home Loan Corporation ("First Horizon") concerning real property commonly known as 8003 66th Street NE, Marysville, Snohomish County, Washington (the "Property").

On or about September 11, 2003, Petitioner Steven Milton: Gray ("Gray") recorded a document entitled "Note" which purported to discharge Roehrich's obligation to First Horizon. On or about November 5, 2003, Roehrich executed a Quit Claim Deed in favor of Gray as well as a deed of trust. Some time prior to this recording of the Quit Claim Deed, Roehrich stopped making their regular, monthly mortgage payments to First Horizon.

As a result of this default on Roehrich's mortgage payments, First Horizon instructed Quality Loan Service Corp ("Quality"), Trustee under the Roerich deed of trust, to commence a non-judicial foreclosure on the Property in order to satisfy the debt. On or about April 16, 2004 a Notice of Trustee's Sale was issued, recorded and served on Roehrich and Gray by Quality.

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and Quality Loan Service Corp have absolutely nothing to do with this cited case as will be discussed further below.

2. Gray subsequently instituted litigation in Snohomish County Superior Court under cause no. 04-2-11104-6 against Quality and First Horizon alleging that that the debt, giving rise to the deed of trust, had been paid in full. Quality and First Horizon prevailed in this litigation when they were granted summary judgment on November 11, 2004. (Rep. App. 1a-2a.)

3. Gray then appealed the Snohomish County Superior Court litigation to the Supreme Court of the State of Washington on November 18, 2004 under cause no. 76316-0. The Supreme Court of the State of Washington has not ruled on this matter, in fact, due to motions for extension filed by Gray, the briefs have not even been filed. The most recent Order from the Supreme Court of the State of Washington dated March 31, 2005 is a Ruling Denying Gray's Motion to Supplement the Record. (Rep. App. 3a-4a.)

4. Gray's Petition for Writ of Certiorari to the Supreme Court of the State of Washington, outside of the caption naming First Horizon and Quality as Respondents, fails to reference what has transpired in the lower Court or his pending appeal to the Washington Supreme Court. Confusingly, Petitioners do not seek any form of relief from this Court concerning the ruling of the Snohomish County Superior Court or permission to by-pass the pending appeal in the Supreme Court of the State of Washington. Respondents First Horizon and Quality are not even referenced by incorporation in the Appendices. (Pet. 1-19; Pet. App. 1a-83a.)

5. Respondents First Horizon and Quality have no relationship, no pending litigation, and no former litigation with Bishop of the Way Thom Satterlee or Nazirite Elder of Truth Floyd Timothy: Ryan, Petitioners. Respondents First Horizon and Quality have no relationship, no pending litigation, and no former litigation with Territory/State of Washington, Bruce and Audrey Chikalls [sic], Wells Fargo, Wilshire

Credit Corporation, Carey McCrary or Lorrie Canada, Respondents.

6. Instead of appealing the lower Courts granting of the summary judgment motion, Petitioners are seeking review of Petitioner, Bishop of the Way Thom Satterlee's, criminal conviction (Pet. 6-7.); Petitioner, Director Northwest Housing Trust Steven Milton: Gray's, "denied hearing" and "denial of fundamental due process" in a State Supreme Court case (Pet. 7-8.); and Petitioner, Nazirite Elder of Trust Floyd Timothy: Ryan's, "denied hearing" in a State Supreme Court case (Pet. 8.).

## ARGUMENT

### A. Jurisdiction

Supreme Court Rule 10 concerning jurisdiction on a writ of certiorari sets forth three reasons why this Court would grant review.[2] The applicable section to the case at bar is Supreme Court Rule 10(b) which conveys jurisdiction if it is shown that "a state court of last resort has decided an important federal question in a way that conflicts with the decision of another state court of last resort or of a United States court of appeal."

This rule is further articulated by 28 U.S.C. Section 1257 which states: "Final judgment or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari . . . where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution . . ." See also *Flynt v. Ohio*, 451 U.S. 619

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[2] Supreme Court Rule 10(a) does not apply since Petitioners do not allege that two or more Court of Appeals have conflicted in their decisions concerning the matter. Although the State Court has issued rulings in Petitioners' other cases, Rule 10(c) does not apply as none of these rulings involved Respondents, First Horizon Home Loan Corporation or Quality Loan Service Corp.

(1981) (reviewing state court decision is generally limited to final judgment); *Montgomery Bldg. & Const. Trades Council v. Ledbetter Erection Co.*, 344 U.S. 178 (1952) ("Requirement that final judgment or decree be rendered by highest court of state before Supreme Court may intervene in state litigation is not a mere technicality, to be easily scorned, but an important factor in the smooth working of our federal system."); *West Virginia Motor Truck Ass'n v. Public Service Commission of W. Va.*, 348 U.S. 881 (1954) (requiring a final judgment or decrees from the state courts to prevent exercise of jurisdiction by piecemeal review).

As stated above, the Supreme Court of the State of Washington has yet to rule on the pending appeal involving Respondents First Horizon and Quality. Thus, no final judgment or decree from a state court has been issued yet and this Court lacks jurisdiction pursuant to 28 U.S.C. Section 1257.

**B. Technical Merits**

Petitioners have failed to comply with Supreme Court Rule 14 concerning the contents of a Petition for a Writ of Certiorari with regard to Respondents First Horizon and Quality.

First, Petitioners have failed to comply with Rule 14(a), which requires a statement of the case. The lower court litigation with Respondents First Horizon and Quality is not even mentioned.

Second, Petitioners have failed to comply with Rule 14(d), which requires citations to orders entered in the case by other courts. Again, the filed Petition makes no reference to the litigation with Respondents First Horizon and Quality, and the existing Order in the case is not even attached in the Appendix.

Third, Petitioners have failed to comply with Rule 14(e), which requires a statement of the basis for jurisdiction. The

Petition does reference constitutional provisions relating to the other cases, but no reference is made to Respondents First Horizon and Quality, and certainly no reference to the pending Supreme Court of the State of Washington appeal.

Fourth, Petitioners have failed to comply with Rule 14(f), which requires statutory citations be provided. The Snohomish County Superior Court action involving Respondents First Horizon and Quality, relies on RCW 61.24, et. seq. and whether summary judgment should have been granted under Washington State Court Rule 56. There is no mention of these provisions by Petitioners.

Finally, Petitioners have failed to comply with Rule 14(g), which requires a statement of the facts relating to the question(s) presented. Again, Respondents First Horizon and Quality, are not even mentioned by Petitioners. The manner in which the Petitioners present their Petition definitely does not describe, with sufficient particularity, enough information to allow this Court to make an informed decision on the merits of the requested relief.

### C. Merits of the Case

Petitioners brief completely and utterly lacks merit with regard to Respondents First Horizon and Quality, in that they are not mentioned, the lower court's opinion is not referenced, the Supreme Court of the State of Washington appeal is still pending, and ultimately the question of the separation of church and state has absolutely nothing to do with non-payment of a mortgage debt. The actions of Petitioners can only be viewed as a mechanism to again stall the Trustee's sale of the secured property.

## CONCLUSION

The petition for a writ of certiorari should be denied.

Respectfully submitted,

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